

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
10

11 ROBBY MACDONALD, an individual,

12 Plaintiff,

13 v.

14 THE BOEING COMPANY, a  
15 corporate entity form unknown, and  
DOES 1-50, inclusive,

16 Defendants.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No. 8:24-cv-01087-JWH-DFMx

**ORDER GRANTING  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT [ECF  
No. 28]**

1 Before the Court is the motion of Defendant The Boeing Company for  
2 summary judgment.<sup>1</sup> The Court conducted a hearing on the Motion in July  
3 2025. After considering the papers filed in support and in opposition,<sup>2</sup> as well as  
4 the argument of counsel at the hearing, the Court **GRANTS** the Motion, for the  
5 reasons set forth herein.

## 6 I. PROCEDURAL BACKGROUND

7 Plaintiff Robby MacDonald commenced this action in Orange County  
8 Superior Court in February 2024.<sup>3</sup> He asserted the following nine claims for  
9 relief against his former employer, Boeing:

- 10 • discrimination in violation of the Fair Employment and Housing Act  
11 (“FEHA”), Cal. Gov’t Code §§ 12940 *et seq.*;
- 12 • failure to accommodate in violation of FEHA, Cal. Gov’t Code  
13 § 12940(m);
- 14 • failure to engage in the interactive process in violation of FEHA,  
15 Cal. Gov’t Code § 12940(n);
- 16 • age discrimination in violation of FEHA;
- 17 • sexual orientation discrimination in violation of FEHA;
- 18 • failure to prevent discrimination in violation of FEHA, Cal. Gov’t Code  
19 § 12940(k);
- 20 • retaliation in violation of FEHA, Cal. Gov’t Code § 12940(h);
- 21 • wrongful termination; and

---

22 <sup>1</sup> See Def.’s Mot. for Summ. J. (the “Motion”) [ECF No. 28].

23 <sup>2</sup> The Court considered the documents of record in this action, including  
24 the following papers: (1) Compl. (the “Complaint”) [ECF No. 1-2];  
25 (2) Motion; (3) Joint Statement of Undisputed Facts (the “Joint Statement”) [ECF No. 28-2]; (4) Joint Ex. (the “Joint Exhibit”) [ECF No. 28-4]; (5) Pl.’s  
26 Opp’n to the Motion (the “Opposition”) [ECF No. 30]; and (6) Def.’s Reply in  
27 Supp. of the Motion (the “Reply”) [ECF No. 31].

28 <sup>3</sup> See *generally* Complaint.

1 • violation of Cal. Bus. & Prof. Code §§ 17200 *et seq.* (the “UCL”).  
2 Boeing removed the action to this Court in May 2024.<sup>4</sup> It filed the instant  
3 Motion one year later, in May 2025.<sup>5</sup>

## 4 II. LEGAL STANDARD

5 Summary judgment is appropriate when there is no genuine issue as to  
6 any material fact and the moving party is entitled to judgment as a matter of law.  
7 *See* Fed. R. Civ. P. 56(a). When deciding a motion for summary judgment, the  
8 court construes the evidence in the light most favorable to the non-moving  
9 party. *See Barlow v. Ground*, 943 F.2d 1132, 1135 (9th Cir. 1991). However, “the  
10 mere existence of *some* alleged factual dispute between the parties will not defeat  
11 an otherwise properly supported motion for summary judgment; the  
12 requirement is that there be no *genuine* issue of *material* fact.” *Anderson v.*  
13 *Liberty Lobby, Inc.*, 477 U.S. 242, 247–48 (1986) (emphasis in original). The  
14 substantive law determines the facts that are material. *See id.* at 248. “Only  
15 disputes over facts that might affect the outcome of the suit under the governing  
16 law will properly preclude the entry of summary judgment.” *Id.* Factual  
17 disputes that are “irrelevant or unnecessary” are not counted. *Id.* A dispute  
18 about a material fact is “genuine” “if the evidence is such that a reasonable jury  
19 could return a verdict for the nonmoving party.” *Id.*

20 Under that standard, the moving party has the initial burden of informing  
21 the court of the basis for its motion and identifying the portions of the pleadings  
22 and the record that it believes demonstrate the absence of an issue of material  
23 fact. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Where the non-  
24 moving party bears the burden of proof at trial, the moving party need not  
25 produce evidence negating or disproving every essential element of the non-  
26

---

27 <sup>4</sup> See Notice of Removal [ECF No. 1].

28 <sup>5</sup> See generally Motion.

1 moving party's case. *See id.* at 325. Instead, the moving party need only prove  
2 there is an absence of evidence to support the nonmoving party's case. *See id.*;  
3 *In re Oracle Corp. Sec. Litig.*, 627 F.3d 376, 387 (9th Cir. 2010). The party  
4 seeking summary judgment must show that "under the governing law, there can  
5 be but one reasonable conclusion as to the verdict." *Anderson*, 477 U.S. at 250.

6 If the moving party sustains its burden, the non-moving party must then  
7 show that there is a genuine issue of material fact that must be resolved at trial.  
8 *See Celotex*, 477 U.S. at 324. A genuine issue of material fact exists "if the  
9 evidence is such that a reasonable jury could return a verdict for the non-moving  
10 party." *Anderson*, 477 U.S. at 248. "This burden is not a light one. The non-  
11 moving party must show more than the mere existence of a scintilla of  
12 evidence." *Oracle Corp. Sec. Litig.*, 627 F.3d at 387 (citing *Anderson*, 477 U.S. at  
13 252). The non-moving party must make that showing on all matters placed at  
14 issue by the motion as to which it has the burden of proof at trial. *See Celotex*,  
15 477 U.S. at 322; *Anderson*, 477 U.S. at 252.

16 Furthermore, a party "may object that the material cited to support or  
17 dispute a fact cannot be presented in a form that would be admissible in  
18 evidence." Fed. R. Civ. P. 56(c)(2). "The burden is on the proponent to show  
19 that the material is admissible as presented or to explain the admissible form that  
20 is anticipated." Advisory Committee Notes, 2010 Amendment, to  
21 Fed. R. Civ. P. 56. Reports and declarations in support of an opposition to  
22 summary judgment may be considered only if they comply with Rule 56(c) of the  
23 Federal Rules of Civil Procedure, which requires that they "be made on  
24 personal knowledge, set forth facts that would be admissible evidence, and show  
25 affirmatively that the declarant is competent to testify to the matters stated  
26 therein." *Nadler v. Nature's Way Prod., LLC*, 2015 WL 12791504, at \*1 (C.D.  
27 Cal. Jan. 30, 2015); *see also Loomis v. Cornish*, 836 F.3d 991, 996–97 (9th Cir.

2016) (noting that hearsay statements do not enter into the analysis on summary judgment).

### III. FACTUAL BACKGROUND

The material facts set forth below are sufficiently supported by admissible evidence and are uncontroverted. They are “admitted to exist without controversy” for the purpose of summary judgment. *See* Fed. R. Civ. P. 56(e)(2); L.R. 56-3. The Court deems a fact undisputed when the parties’ “disputes” of that fact are merely restatements of the same fact, they do not actually contradict the substance of a fact, or they argue the relevancy and materiality of an otherwise undisputed fact. *See* Fed. R. Civ. P. 56(e)(2); L.R. 56-3.<sup>6</sup>

#### A. July 2021 Retirement Announcement

MacDonald began his employment with Boeing in November 1998.<sup>7</sup> In July 2021, while he was working as a Supplier Program Manager, MacDonald emailed his supervisor, Paul Bell, to inform Bell that MacDonald’s family wanted MacDonald to “separate” himself from Boeing “on account of severe health concerns.”<sup>8</sup> MacDonald explained to Bell that MacDonald would be

---

<sup>6</sup> The parties object to multiple items of evidence filed with the Motion. “[O]bjections to evidence on the ground that it is irrelevant, speculative, and/or argumentative, or that it constitutes an improper legal conclusion are all duplicative of the summary judgment standard itself”; they are thus “redundant” and need not be considered. *Burch v. Regents of Univ. of California*, 433 F. Supp. 2d 1110, 1119 (E.D. Cal. 2006); *see also Anderson*, 477 U.S. at 248 (“Factual disputes that are irrelevant or unnecessary will not be counted.”). The Court therefore **OVERRULES** all such objections. Additionally, the Court need not consider some of the evidence to which the parties have objected in order to decide the Motion. Objections not specifically addressed are **OVERRULED**.

<sup>7</sup> *See* Joint Statement, No. 1.

<sup>8</sup> *Id.* at Nos. 2, 4, & 5.

1 unable to travel in the near future, he said that his family was “pushing for  
2 permanent separation,” and he asked whether Bell was “in a position to discuss  
3 what options [MacDonald] ha[d].”<sup>9</sup>

4 According to Bell, he and MacDonald had a phone conversation the  
5 following day to discuss MacDonald’s plans to retire; MacDonald does not  
6 remember the conversation, but he testified that he “sure hope[d]” that it  
7 happened.<sup>10</sup> And it appears that the conversation *did* happen: later that same  
8 day, Bell transmitted an email to MacDonald thanking him for the conversation  
9 and informing MacDonald that “[i]f traveling [was] not an option, [Bell] would  
10 need for [MacDonald] to provide [Bell] medical determination so that [Bell]  
11 [could] work a reasonable accommodation.”<sup>11</sup> Bell also provided a link for  
12 MacDonald to upload medical documentation, but MacDonald never provided  
13 any such information.<sup>12</sup> Rather, MacDonald emailed several of his coworkers to  
14 inform them that he was “no longer engaged” and was “in the process of  
15 selecting [his] exit date.”<sup>13</sup>

16 Later that month, MacDonald notified Bell that MacDonald intended his  
17 exit date to be October 1, 2021.<sup>14</sup> MacDonald later testified that he was unsure  
18 whether, when he referred to that “exit date,” he meant that he would be  
19 exiting from a particular program at Boeing or exiting from the company  
20 entirely; nevertheless, Bell began to search for MacDonald’s replacement.<sup>15</sup> Bell  
21

---

22 <sup>9</sup> *Id.* at No. 5.

23 <sup>10</sup> *Id.* at No. 6.

24 <sup>11</sup> *Id.* at No. 7.

25 <sup>12</sup> *Id.* at Nos. 8 & 9.

26 <sup>13</sup> *Id.* at No. 10.

27 <sup>14</sup> *Id.* at No. 13.

28 <sup>15</sup> *Id.* at Nos. 13 & 14.

1 eventually hired Thomas Evatt, who was then 64 years old, to replace  
2 MacDonald.<sup>16</sup> MacDonald and Evatt are approximately the same age, and  
3 MacDonald testified that he helped to train Evatt in order to ensure “as much  
4 knowledge transfer” as possible before his retirement.<sup>17</sup>

5 **B. October 2021 Retirement Announcement**

6 Due to health issues that his wife suffered at the time, MacDonald did not  
7 retire on October 1, 2021.<sup>18</sup> But later that month, MacDonald emailed his  
8 coworkers—including Bell and Evatt—to inform them that he would be visiting  
9 his children in Mexico in an effort to “ease [himself] into retirement one step at  
10 a time.”<sup>19</sup> MacDonald also informed Bell that MacDonald was working with the  
11 Human Resources department to finalize his retirement and that he was  
12 projecting to retire by mid-January 2022.<sup>20</sup> MacDonald further explained that  
13 he planned to retire once he had “an all clear” with respect to his wife’s health  
14 issues because he needed his “wife cancer free before [he could] afford the  
15 change in insurance.”<sup>21</sup> MacDonald conveyed to Bell that he expected the all-  
16 clear to happen by mid-January 2022 but that that date could “change based on  
17 health conditions.”<sup>22</sup>

18 **C. January 2022 Retirement Announcement**

19 In mid-January 2022, MacDonald sent an email to several of his  
20 coworkers—including Bell—to inform them that his wife’s health issues had

---

21 <sup>16</sup> *Id.* at Nos. 22 & 23.

22 <sup>17</sup> *Id.* at No. 24; *see also* Joint Exhibit, Ex. Y (the “MacDonald Deposition”)  
23 94:18-23.

24 <sup>18</sup> *See* Joint Statement, Nos. 31 & 88.

25 <sup>19</sup> *See id.* at No. 32.

26 <sup>20</sup> *Id.* at No. 33.

27 <sup>21</sup> *Id.* at Nos. 88 & 89.

28 <sup>22</sup> *Id.*



1 been resolved and that, “[b]ased on the successful survival and prospering of  
2 [his] spouse,” it was time for him to “take a different path.”<sup>23</sup> MacDonald  
3 wrote that he would be a “free agent on April 1st,” that “[p]aperwork [was] in  
4 work,” and that his “target date of cessation of effort [was] March 24” with a  
5 “drop dead date [of] March 31st.”<sup>24</sup> MacDonald further explained that “there  
6 [were] approximately 10 weeks” until March 24, 2025, that he had “8 weeks of  
7 [paid time off],” that he intended to use all of his time off, and that he had only  
8 “2 weeks of work time” left or “about 3 days left to work.”<sup>25</sup>

9 In early February 2022, Bell asked to discuss that plan with MacDonald,  
10 in part because Boeing needed to determine the “timing of picking up  
11 [MacDonald’s] laptop, phone, credit card, and any other company asset in  
12 [MacDonald’s] possession.”<sup>26</sup> In response, MacDonald agreed that he  
13 “need[ed] to know where to drop off the computing equipment and phone etc.”  
14 in view of his impending retirement date.<sup>27</sup> MacDonald also informed Bell that  
15 he wanted to “get it done sooner rather than later,” and he inquired whether he  
16 needed to provide Bell with anything other than retirement paperwork, which  
17 MacDonald was “trying to fill out now.”<sup>28</sup> MacDonald informed Bell that,  
18 unless there was anything else that Bell needed from MacDonald, MacDonald  
19 would be on paid time off until March 24, 2022.<sup>29</sup> Bell did not ask for any other  
20 information from MacDonald; instead, Bell confirmed that MacDonald was  
21

---

22 <sup>23</sup> *Id.* at No. 41.

23 <sup>24</sup> *Id.*

24 <sup>25</sup> Joint Exhibit, Ex. I (“Exhibit I”).

25 <sup>26</sup> *Id.*

26 <sup>27</sup> *Id.*

27 <sup>28</sup> Joint Statement, No. 43.

28 <sup>29</sup> *Id.*



1 “using PTO” until MacDonald’s last day of work.<sup>30</sup> In view of that fact, Bell  
2 told MacDonald that he could “pre-load all of [MacDonald’s] remaining days  
3 with PTO” and that someone in California would reach out to MacDonald “to  
4 retrieve [MacDonald’s] assets.”<sup>31</sup>

5 Later that month, while he was on vacation in Mexico, MacDonald  
6 notified Bell that “[d]ue to recent test results,” his voluntary retirement date  
7 was “potentially at risk of slipping.”<sup>32</sup> MacDonald did not explain what those  
8 test results were, and he did not mention his wife’s cancer diagnosis or health  
9 issues.<sup>33</sup> MacDonald later testified that those test results, whatever they may  
10 have been, did not belong to his wife and that they were unrelated to her health  
11 issues.<sup>34</sup> Bell, who had already hired MacDonald’s replacement—Evatt—  
12 emailed a Human Resources representative to request guidance because the  
13 “continuous churn [was] unmanageable from a business planning  
14 perspective.”<sup>35</sup>

15 Several days later, MacDonald—who was still on paid time off—  
16 requested medical leave for a non-work-related health issue.<sup>36</sup> Boeing approved  
17 the leave, which extended beyond MacDonald’s retirement date.<sup>37</sup> Boeing did  
18 not process MacDonald’s retirement while he remained on medical leave,<sup>38</sup> but  
19

---

20 <sup>30</sup> *Id.*

21 <sup>31</sup> *Id.* at No. 44; Exhibit I.

22 <sup>32</sup> Joint Statement, No. 45; Exhibit I.

23 <sup>33</sup> *See* Exhibit I.

24 <sup>34</sup> *See* MacDonald Deposition 132:22-25.

25 <sup>35</sup> Joint Statement, No. 47.

26 <sup>36</sup> *Id.* at No. 48.

27 <sup>37</sup> *Id.* at Nos. 49 & 50.

28 <sup>38</sup> *Id.* at No. 51.

1 there is no evidence that MacDonald informed Boeing that he had reconsidered  
2 his retirement plans.<sup>39</sup> Similarly, MacDonald never followed up with Bell  
3 regarding the potential that MacDonald's retirement date would "slip[.]"<sup>40</sup>

4 In early June 2022, MacDonald prepared to return from medical leave,  
5 and, in relation to his return, he inquired about obtaining a standing desk.<sup>41</sup> A  
6 Boeing accommodations services representative who was unaware of  
7 MacDonald's retirement responded, but MacDonald did not follow up with  
8 her.<sup>42</sup> Approximately one week later, another Boeing representative, who was  
9 also unaware of MacDonald's retirement, also reached out to MacDonald.<sup>43</sup>

10 Again, MacDonald did not respond, but the representative followed up.<sup>44</sup>  
11 MacDonald then replied to advise the representative that he was no longer at  
12 Boeing but that he was very impressed with the representative's work ethic.<sup>45</sup>

13 MacDonald's retirement was finalized on June 16, 2022.<sup>46</sup> MacDonald  
14 received retirement payments from Boeing for five months, then he began  
15 working for another company.<sup>47</sup> MacDonald remains eligible to be rehired at  
16 Boeing, and he has never attempted to rescind his retirement.<sup>48</sup>

---

19 <sup>39</sup> See MacDonald Deposition 188:1-4.

20 <sup>40</sup> See Exhibit I.

21 <sup>41</sup> Joint Statement, No. 53.

22 <sup>42</sup> *Id.* at Nos. 52-54.

23 <sup>43</sup> *Id.* at No. 55.

24 <sup>44</sup> *Id.* at Nos. 56 & 57.

25 <sup>45</sup> *Id.* at No. 58.

26 <sup>46</sup> *Id.* at No. 62.

27 <sup>47</sup> See MacDonald Deposition 148:18-23.

28 <sup>48</sup> Joint Statement, No. 64.

#### IV. ANALYSIS

Boeing moves for summary judgment on all of MacDonald's claims because, in Boeing's view, MacDonald never suffered any adverse employment action and MacDonald was never denied an accommodation.<sup>49</sup> The Court agrees.

**A. Discrimination, Age Discrimination, Sexual Orientation Discrimination, Failure to Prevent Discrimination, Retaliation, Wrongful Termination, and UCL (Claims 1 & 4-9)**

The court applies the *McDonnell Douglas v. Green*, 411 U.S. 792 (1973), burden-shifting framework to claims asserted under FEHA. *See Trop v. Sony Pictures Entertainment, Inc.*, 129 Cal. App. 4th 1133, 1144 (2005). Under that framework, "the plaintiff must make out a prima facie case." *Weil v. Citizens Telecom Servs. Co., LLC*, 922 F.3d 993, 1002 (9th Cir. 2019) (citing *McDonnell Douglas*, 411 U.S. at 802).

In a disability discrimination case, a plaintiff may make out a *prima facie* case by showing "that he or she (1) suffered from a disability, or was regarded as suffering from a disability; (2) could perform the essential duties of the job with or without reasonable accommodations; and (3) was subjected to an adverse employment action because of the disability or perceived disability." *Sandell v. Taylor-Listug, Inc.*, 188 Cal. App. 4th 297, 310 (2010). For other types of discrimination claims, plaintiffs must show "(1) that they are members of a protected class; (2) that they were qualified for their positions and performing their jobs satisfactorily; (3) that they experienced adverse employment actions; and (4) that similarly situated individuals outside their protected class were treated more favorably, or other circumstances surrounding the adverse employment action give rise to an inference of discrimination." *Hawn v.*

---

<sup>49</sup> See generally Motion.

1 *Executive Jet Mgmt., Inc.*, 615 F.3d 1151, 1156 (9th Cir. 2010) (alterations adopted  
2 and quotation omitted).

3 “Once the prima facie case is made,” the burden “shifts to the defendant  
4 to articulate a ‘legitimate, nondiscriminatory reason’ for its action.” *Weil*, 922  
5 F.3d at 1002. If the defendant provides a nondiscriminatory reason, the burden  
6 shifts back to the plaintiff, who “must produce evidence that the defendant’s  
7 ‘proffered nondiscriminatory reason is merely a pretext for discrimination.” *Id.*  
8 (quoting *Dominguez-Curry v. Nev. Transp. Dept.*, 424 F.3d 1027, 1037 (9th Cir.  
9 2005)).

10 The standard for establishing a retaliation claim is similar to the standard  
11 for establishing a discrimination claim. To succeed on a FEHA retaliation claim,  
12 a plaintiff/employee must show “(1) the employee engaged in protected  
13 activity; (2) the employee was subjected to an adverse employment action; and  
14 (3) a causal link between the protected activity and adverse action.” *Tandon v.*  
15 *GN Audio USA, Inc.*, 2021 WL 242916, at \*8 (N.D. Cal. Jan. 25, 2021) (citing  
16 *Yanowitz v. L’Oreal USA, Inc.*, 36 Cal. 4th 1028, 1042 (2005)). Like  
17 discrimination and harassment claims, retaliation claims are subject to the  
18 *McDonnell Douglas* burden-shifting framework. *See Moore v. Regents of Univ. of*  
19 *Cal.*, 248 Cal. App. 4th 216, 248 (2016).

20 The parties largely agree that, for the purpose of the instant Motion, the  
21 sole issue in dispute is whether MacDonald suffered an adverse employment  
22 action. According to MacDonald, a reasonable dispute exists regarding that  
23 issue because MacDonald was involuntarily terminated in June 2021.  
24 Specifically, MacDonald contends that, although he repeatedly announced his  
25 intent to retire—and although he did in fact intend to retire—he was  
26 nevertheless involuntarily terminated after he became disabled.<sup>50</sup> MacDonald

27  
28 <sup>50</sup> See generally Opposition.

1 further argues that “there is no reasonable interpretation of the undisputed  
2 evidence that would support [Boeing’s] contention that [MacDonald’s]  
3 separation from Boeing was preceded by [MacDonald’s] retirement or  
4 resignation” and that “the evidence related to [MacDonald’s] separation  
5 reflects that there was an involuntary termination.”<sup>51</sup>

6 If such evidence exists, the Court is unable to locate it in the documents  
7 that the parties submitted. Nowhere in the Joint Statement or Joint Exhibit is  
8 there any email, document, or testimony suggesting that MacDonald was fired  
9 from Boeing or that MacDonald’s disability, sexual orientation, or age played a  
10 role in his termination. In asserting otherwise, MacDonald relies on the  
11 following facts: (1) that MacDonald never submitted any of his retirement  
12 paperwork; (2) that an unsigned separation agreement was provided to  
13 MacDonald in June 2022 and, in that separation agreement, Boeing stated that it  
14 would process MacDonald’s departure as an involuntary termination; and  
15 (3) that MacDonald informed Bell on February 17, 2022, that MacDonald’s  
16 retirement date was “at risk of slipping” due to “test results.”<sup>52</sup>

17 Those facts are insufficient to create a genuine dispute regarding the basis  
18 for MacDonald’s departure. First, the fact that MacDonald failed to complete  
19 his retirement paperwork is immaterial. A Human Resources representative  
20 testified that a manager may submit retirement information for an employee,<sup>53</sup>  
21 and it is undisputed that MacDonald left on vacation shortly after confirming his  
22 plan to retire, that MacDonald had not yet completed his paperwork at that  
23 time, and that Bell told MacDonald that he need not take his work computer  
24

---

25  
26 <sup>51</sup> *Id.* at 22:8-11.

27 <sup>52</sup> *See* Joint Exhibit, Ex. 7 (the “Separation Agreement”).

28 <sup>53</sup> *Id.*, Ex. O (the “Lipsky Deposition”) 28:20-29:3.

1 with him on vacation.<sup>54</sup> In view of those facts, MacDonald's failure to return his  
2 paperwork does not create a material disputed fact.

3 Second, MacDonald contends that the Separation Agreement proves that  
4 Boeing knew that MacDonald no longer wanted to retire, but it chose to enforce  
5 MacDonald's retirement date anyway, which means that Boeing terminated  
6 MacDonald involuntarily. But the Separation Agreement was provided to  
7 MacDonald *after* MacDonald met with Bell and Boeing's Human Resources  
8 Department in June 2022.<sup>55</sup> It is undisputed that, by that time, Boeing learned  
9 that MacDonald no longer wanted to retire and that Boeing had decided to  
10 honor MacDonald's retirement date anyway. Thus, the Separation Agreement  
11 is not probative of any material fact.

12 Third, MacDonald interprets Bell's choice to forward MacDonald's  
13 February 15, 2022, email to a Human Resources representative to mean several  
14 things: (1) that the condition precedent to MacDonald's retirement—his wife's  
15 successful recovery—was no longer satisfied; (2) that Bell knew that  
16 MacDonald no longer planned to retire; (3) that Bell decided to terminate  
17 MacDonald anyway; and (4) that Bell's decision was based upon MacDonald  
18 becoming disabled.<sup>56</sup> But that chain of inferences requires too many links, and  
19 nearly all of them are broken. For example, although MacDonald believes that  
20 the "test results" reference notified Bell that MacDonald's wife was  
21 experiencing more health issues, MacDonald testified that those "test results"  
22 had nothing to do with his wife.<sup>57</sup> Similarly, while MacDonald's email suggested  
23 that he might not want to retire by April 1, 2022, MacDonald never followed up  
24

---

25 <sup>54</sup> See Joint Statement, No. 43; Exhibit I.

26 <sup>55</sup> See Separation Agreement.

27 <sup>56</sup> See Exhibit I.

28 <sup>57</sup> MacDonald Deposition 132:22-25.

1 with Bell about moving his retirement date.<sup>58</sup> And, in view of MacDonald's  
2 history of shifting retirement dates and the long-filled position, Bell's  
3 "continuous churn" comment was far more innocuous than MacDonald  
4 suggests.

5 More importantly, even if a reasonable juror *could* interpret the  
6 February 15, 2022, emails as proof that Boeing decided to terminate MacDonald  
7 involuntarily, there is no evidence that Boeing took that action because of  
8 MacDonald's disability. As MacDonald acknowledges, he became disabled on  
9 February 17, 2022—two days after he informed Bell that his retirement date was  
10 "at risk of slipping."<sup>59</sup> But MacDonald also contends that Bell made the  
11 decision to terminate MacDonald immediately after MacDonald sent the  
12 February 15, 2022, email.<sup>60</sup> Thus, even taking MacDonald's version of the facts  
13 as true, Boeing decided to terminate MacDonald *before* MacDonald became  
14 disabled, which means that no reasonable juror could conclude that  
15 MacDonald's disability played any part in that decision.

16 Ultimately, it is undisputed that (1) MacDonald informed Bell in October  
17 2021 that he intended to retire in early 2022; (2) MacDonald reiterated that plan  
18 in January 2022, at which time he informed Bell that his last day of work would  
19 be March 24, 2022, and that MacDonald would be on vacation between  
20 February 8, 2022, and March 24, 2022; (3) MacDonald in fact took paid time off  
21 that began on February 8, 2022; (4) MacDonald remained on paid time off until  
22 he took approved medical leave beginning in February 2022; (5) MacDonald  
23 remained on medical leave until June 2022; (6) prior to MacDonald's return  
24 from medical leave in June 2022, he never informed Bell or any other supervisor  
25

---

26 <sup>58</sup> See Exhibit I.

27 <sup>59</sup> See *id.*

28 <sup>60</sup> Joint Statement, No. 47.



1 that he no longer planned to retire; and (7) MacDonald knew that his role was  
2 already filled, in part because he helped to train his own replacement. Based  
3 upon those facts, no reasonable juror could conclude that MacDonald's  
4 departure from Boeing resulted from anything other than MacDonald's own,  
5 well-documented plan to retire.

6 Accordingly, Boeing's Motion is **GRANTED** with respect to  
7 MacDonald's claims for discrimination, retaliation, and wrongful termination.<sup>61</sup>  
8 Additionally, because MacDonald's discrimination and retaliation claim fail,  
9 Boeing is also entitled to summary judgment on MacDonald's UCL claim,  
10 which is derivative of MacDonald's other claims.

11 **B. Failure to Accommodate and Failure to Engage in the Interactive**  
12 **Process (Claims 2 & 3).**

13 Boeing also argues that it is entitled to summary judgment on  
14 MacDonald's claims for failure to accommodate and failure to engage in the  
15 interactive process because it is undisputed that Boeing did not, at any point, fail  
16 to accommodate MacDonald's disability.

17 FEHA provides that it is unlawful for an employer "to fail to make  
18 reasonable accommodation for the known physical or mental disability of an"  
19 employee. Cal. Gov't Code § 12940(m). The "essential elements" of a claim  
20 for failure to accommodate "are: (1) the plaintiff has a disability covered by  
21 FEHA; (2) the plaintiff is a qualified individual; and (3) the employer failed to  
22 reasonably accommodate the plaintiff's disability." *Taylor v. Trees, Inc.*, 58  
23 F. Supp. 3d 1092, 1111 (E.D. Cal. 2014). "A plaintiff is a 'qualified individual' if  
24 he can perform the essential functions of the desired job either with or without  
25 accommodation." *Id.* (quoting *Cuiellette v. City of Los Angeles*, 194 Cal. App. 4th

---

26 <sup>61</sup> MacDonald concedes that two of those claims—age discrimination and  
27 sexual orientation discrimination—are not supported by substantial evidence  
28 and that they should be dismissed. *See* Opposition 36:13-20.

1 757, 766 (2011)). “To face liability under [Cal. Gov’t Code] section 12940(m),  
2 an employer must have been aware of the employee’s disability.” *Achal v. Gate*  
3 *Gourmet, Inc.*, 114 F. Supp. 3d 781, 799 (N.D. Cal. 2015).

4 Additionally, California law provides that an employer must “engage in a  
5 timely, good faith, interactive process with the employee . . . to determine  
6 effective reasonable accommodations, if any, in response to a request for  
7 reasonable accommodation by an employee [] with a known physical or mental  
8 disability or known medical condition.” Cal. Gov’t Code § 12940(n). “To  
9 prevail on a claim for failure to engage in the interactive process, the employee  
10 must identify a reasonable accommodation that would have been available at the  
11 time the interactive process occurred.” *Nealy v. City of Santa Monica*, 234  
12 Cal. App. 4th 359, 379 (2015).

13 MacDonald’s claims for failure to accommodate and failure to engage in  
14 the interactive process relate to the medical problem that MacDonald  
15 experienced while he was on vacation in Mexico, for which MacDonald  
16 requested medical leave and, after that medical leave ended, a standing desk.<sup>62</sup>  
17 It is undisputed that Boeing approved MacDonald’s medical leave—and that  
18 Boeing permitted MacDonald to remain on medical leave beyond his planned  
19 retirement date—but MacDonald contends that Boeing refused to provide him a  
20 standing desk.<sup>63</sup>

21 Because MacDonald’s retirement date passed before he requested his  
22 standing desk, MacDonald’s accommodation claims necessarily fail. But even if  
23 that were not the case, there is no evidence that Boeing refused to accommodate  
24 MacDonald’s disability. To the contrary, that Boeing accommodation services  
25 representatives, who were unaware of MacDonald’s retirement, repeatedly  
26

---

27 <sup>62</sup> See *id.* at 29:9-20.

28 <sup>63</sup> *Id.* at 29:9-30:2.

1 reached out to MacDonald about his request for a standing desk, but MacDonald  
2 failed to respond.<sup>64</sup> Thus, Boeing never denied MacDonald's request, and  
3 MacDonald — *not* Boeing — failed to engage with Boeing while Boeing attempted  
4 to process MacDonald's request.

5 Accordingly, Boeing's Motion is **GRANTED** with respect to  
6 MacDonald's claims for failure to accommodate and failure to engage in the  
7 interactive process.

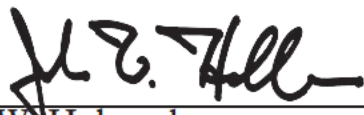
8 **V. DISPOSITION**

9 For the foregoing reasons, the Court hereby **ORDERS** as follows:

- 10 1. Boeing's instant Motion [ECF No. 28] is **GRANTED**.  
11 2. Judgment will issue accordingly.

12 **IT IS SO ORDERED.**

13  
14 Dated: December 1, 2025

  
\_\_\_\_\_  
John W. Holcomb  
UNITED STATES DISTRICT JUDGE

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28 <sup>64</sup> See Joint Statement, No. 57.